

**MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
MARCH 8, 2007**

The Lake County Board of Adjustment met Thursday, March 8, 2007 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Howard (Bob) Fox, Jr.
Steven Berk
Henry Wolsmann, Vice Chairman
Lloyd M. Atkins, Jr.
Mary Link Bennett
Donald Schreiner, Chairman

Board Members Not Present:

Ruth Gray

Staff Present:

Terrie Diesbourg, Director, Zoning Division
Anita Greiner, Chief Planner, Zoning Division
Anna Ely, Public Hearing Coordinator, Zoning Division
Paul Simmons, Planner, Zoning Division
Janie Barron, Associate Planner, Zoning Division
LeChea Parson, Assistant County Attorney I

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed Proof of Publication for each case as shown on the monitor.

TABLE OF CONTENTS

<u>CASE NO.</u>	<u>OWNER/ APPLICANT</u>	<u>AGENDA NO.</u>
Consideration of Minutes	January 11, 2007 February 8, 2007	
Withdrawals:		
BOA#29-07-5	Edward Cullin	2
BOA#33-07-2	Debra Bruegger	6
Continuances:		
BOA#140-06-2	Larry A. Grimes	1
Discussion of Consent Agenda		
Consent Agenda Approval:		
BOA#31-07-2	Sheila Hamblen	4
BOA#35-07-1	Glynn L. and Deborah S. Wallace Glynn L. Wallace	8
Regular Agenda:		
BOA#30-07-3	Annette Prince	3
BOA#32-07-1	Osvaldo Medina	5
BOA#34-07-3	Exclusive Homes, Inc./George D. Laman	7

Minutes

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to approve the January 11, 2007 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to approve the February 8, 2007 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

In response to Chairman Schreiner, Anita Greiner, Chief Planner, requested that Agenda No. 7, BOA#34-07-3, be removed from the consent agenda and added to the regular agenda.

Chairman Schreiner said that if a variance is approved at this public hearing, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter. He explained the procedure for hearing cases on the consent agenda and stated that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case.

Withdrawals

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to accept the withdrawal of BOA#29-07-5 and BOA#33-07-2.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

Continuances

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to grant an indefinite continuance to BOA#140-06-2.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

Discussion of Consent Agenda

There was no one on the Board nor anyone in the audience who had an objection to BOA#31-07-2 and BOA#35-07-1 remaining on the consent agenda.

CASE NO.: BOA#31-07-2 **AGENDA NO.:** 4
OWNER/APPLICANT: Sheila Hamblen

CASE NO.: BOA#35-07-1 **AGENDA NO.:** 8
OWNERS: Glynn L. and Deborah S. Wallace
APPLICANT: Glynn L. Wallace

MOTION by Mary Link Bennett, **SECONDED** by Henry Wolsmann to take the following actions on the above consent agenda:

BOA#31-07-2	Approval with conditions
BOA#35-07-1	Approval with conditions

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

CASE NO.:

BOA#30-07-3

AGENDA NO.:

3

OWNER/APPLICANT:

Annette Prince

Anita Greiner, Chief Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. Since this request is inconsistent with the Comprehensive Plan, Lloyd Atkins asked why the case is before this Board. Ms. Greiner stated that any time a variance request is against the Comprehensive Plan, staff informs the applicant of that fact and that this Board does not have the authority to grant a variance to the Comprehensive Plan; but any applicant has the right to come before this Board and ask the Board to grant a variance.

Jim Richards was present to speak on behalf of Annette Prince. He explained that Ms. Prince has a very serious financial hardship. Ms. Prince needs to sell off the three acres and pay off her debt. He submitted a map as Applicant Exhibit A, noting that all the lots in orange are one-acre tracts. Fifty-nine percent of the lots on this map are smaller than five acres. The roads are maintained in a manner that emergency vehicles would be able to travel on them. He has spoken to people working on the future land use plan who say they are trying to address this issue. Chairman Schreiner said the Comprehensive Plan is within the jurisdiction of the Board of County Commissioners (BCC), not this Board. Mr. Richards said the 2025 Plan actually addresses this and would allow the tracts to be split into one-acre lots. This is what is being recommended. Ms. Prince's request is less than what the new Comprehensive Plan will allow. Mr. Richards felt the Board of Adjustment should be able to override a portion (of the Comprehensive Plan) when it is needs to be overridden. Chairman Schreiner said this Board can only address the Land Development Regulations (LDRs). When Mr. Richards rebutted that sometimes it is necessary to bend the rules, Chairman Schreiner said the Board cannot bend their rules.

In response to Chairman Schreiner, LeChea Parson, Assistant County Attorney, said what Chairman Schreiner said is correct. That is the rule this Board is bound by.

Ms. Greiner said that not all of the lots in this subdivision are equal because it is based on the ownership pattern on March 2, 1993.

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to deny the variance request in BOA#30-07-3 based on the fact that it is in direct conflict with the Comprehensive Plan.

FOR:

Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST:

None

NOT PRESENT:

Gray

MOTION CARRIED:

6-0

CASE NO.:**BOA#32-07-1****AGENDA NO.:****5****OWNER/APPLICANT:****Osvaldo Medina**

Anita Greiner, Chief Planner, presented the case and staff recommendation of denial. She showed the aerial and site plan from the staff report on the monitor. She also showed three black-and-white photographs submitted by the applicant and included in the backup.

Mary Link Bennett was informed by Ms. Greiner that the owner has the right to a wall sign if he is going to replace the area that he says is "rotten." In response to Chairman Schreiner, Ms. Greiner said roof signs are not permitted.

When Lloyd Atkins asked about the "Kathleen & Philip's Hairstyling" sign, Ms. Greiner said that property is within the City of Leesburg.

The applicant was not present, and there was no one in the audience who wished to speak.

MOTION by Mary Link Bennett, SECONDED by Lloyd Atkins to deny the variance request in BOA#32-07-1 as recommended by staff.

FOR:**Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner****AGAINST:****None****NOT PRESENT:****Gray****MOTION CARRIED:****6-0**

CASE NO.: BOA#34-07-3

AGENDA NO.: 7

OWNER: Exclusive Homes
APPLICANT: George D. Laman

Anita Greiner, Chief Planner, said she requested that this case be removed from the consent agenda to ensure that this Board understood that a variance had been submitted over a year ago. To resubmit, it is necessary to wait a certain amount of time and then show a significant change in the request. The Board needs to make a determination on that issue. She showed the aerial and the proposed site plan from the staff report on the monitor and presented the case with a staff recommendation of approval with the condition that the Board has determined that a substantial change in circumstances has occurred since the originally denied application and this application.

Steven Berk asked if the other houses in the neighborhood have ten-foot setbacks. Ms. Greiner submitted a zoning map as County Exhibit A. She said the setbacks vary because there are different zonings in the neighborhood. The subject property is zoned RP. The other zonings in the neighborhood are Commercial and Agriculture. The properties zoned Agriculture requires five-foot setbacks because they are not five-acre tracts. Five-acre tracts would require a 25-foot setback.

Laura Hargroves spoke of the res judicata issue. She said this request was denied on January 12, 2006. At that meeting, Mr. Laman provided a letter in which he proposed single-family residences. The community submitted 34 petitions of opposition. The community is still in opposition due to the res judicata issue. There is nothing significantly changed in this application. Regarding notice of this public hearing, a sign was initially placed on this property. There is a bus stop there, and the sign was torn down within two days. There was no sign placed at the major intersection closest to that property; or if there was, it was stolen. She also had an issue with the application itself. She asked Ms. Greiner to show the proposed plot plan. The size of each residence proposed is a total of 36 feet wide. However, the building description that was submitted with the application shows the home being 39 feet wide, which creates an ambiguity for the application. A person cannot properly judge what is to be done. She stated that Mr. Laman has built some very nice homes in their community, and they appreciate the fact that he is attempting to make the homes look nicer. The lot is only 100 feet wide; he wants to make the parcel into two 50-foot wide lots, which is totally inconsistent with the rest of the neighborhood. Regarding the duplex shown on the aerial, Ms. Hargrove said Code Enforcement is currently inspecting that building for unsafe standards as well as a possible setback issue. She asked that this Board apply res judicata and deny this application again.

George Douglas Laman, president of Exclusive Homes, explained that last year when his variance request was denied, there were 34 petitions of opposition submitted. At that time, a majority of the people said they had no problem with this Board granting relief from the aggregation requirement. What they did not want was rental property as a duplex. Many had suggested building single-family homes on the property. If he had requested that at the time, he felt the variance would have been approved. This is a unique piece of property as it is zoned RP. There is an adjacent triplex on one side and commercial on the other side. He felt that going from a duplex to a single-family home is a substantial change in his request. He meets all the requirements for relief from aggregation. He is building homes in this subdivision and feels he is doing the best for the subdivision. He said he has built a home on the far side of the triplex and recently sold it for \$300,000. The five-foot setbacks that he is proposing would only affect those two homes. That is the setback for the rest of the subdivision so the requested setbacks would not be inconsistent. These lots are different because of their zoning classification.

In response to Henry Wolsmann, Ms. Greiner said most of the lots in the subdivision are 75 feet in width.

Regarding the discrepancy that Ms. Hargrove spoke of, Mr. Laman said they have a basic floor plan that they build that is 36 feet wide; they also have a plan that is 39 feet wide. He must have inadvertently submitted the wrong plan. He said that if this Board grants the variance from the aggregation requirement, the site plan will be part of the approval process with a five-foot setback and a nine-foot setback. Ms. Greiner said the largest house he could build is 36 feet wide. Mr. Laman added that he could not get approval for a 39-foot wide house.

CASE NO.: BOA#34-07-3

AGENDA NO.: 7

OWNER: Exclusive Homes
APPLICANT: George D. Laman

PAGE NO.: 2

MOTION by Henry Wolsmann to deny the variance request in BOA#34-07-3. Motion died for lack of a second.

Mr. Berk did not feel that what Mr. Laman is asking is that unusual especially with commercial property out front and a triplex behind the property.

MOTION by Steven Berk, SECONDED by Howard (Bob) Fox to approve the variance request in BOA#34-07-3.

When Ms. Bennett asked if there was a way it could be established as to how Mr. Laman is going to size the house so there is not such a deviation, Ms. Greiner said it isn't subject to deviation because if this Board grants a setback of five feet on one side and nine feet on the other side, the houses can be no larger than 36 feet wide.

Mr. Berk said the concern in the neighborhood seems to be that the houses would be so close together, which the residents feel would not be attractive. Ms. Bennett asked if there was a possibility that the buildings could be staggered rather than side-by-side so it would not look so boxy. Ms. Greiner submitted a map of the subdivision as County Exhibit B, pointing out that the setback for the existing houses is five feet. Since a five-foot setback is allowed on the other lots, Mr. Berk did not feel it is fair to penalize Mr. Laman for five-foot setbacks on his property. Ms. Bennett said staggering the houses might be more aesthetically pleasing to the neighborhood behind the property, which is not commercial. Ms. Greiner said that directly behind and in front of the subject property is commercial. Chairman Schreiner said his concern in staggering the houses would be the location of the septic tanks. Ms. Greiner said the septic tanks would be in the front of the property. Ms. Bennett explained that a boxy look was an issue when duplexes were discussed last year. She thought that staggering with appropriate shrubbery might improve the appearance.

Chairman Schreiner said it is up to this Board to determine whether considerable change has been made by constructing two single-family dwelling units instead of duplexes.

Lloyd Atkins confirmed with Ms. Greiner that the duplexes in the variance request last year were allowed in RP zoning. In response to Mr. Atkins, Ms. Greiner added that the setback request was slightly different last year. She stated that the previous request was to allow a five-foot setback on the interior lots. The setback on the other side would have been the required ten feet. This Board has granted variances for side setbacks in the past for different zonings, but she could not confirm that setback variances had been granted specifically for RP zoning.

FOR: Fox, Berk, Atkins, Bennett, Schreiner

AGAINST: Wolsmann

NOT PRESENT: Gray

MOTION CARRIED: 5-1

Adjournment

There being no further business, the meeting was adjourned at 2:00 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Donald Schreiner
Chairman

This meeting was recorded by Anna Ely and transcribed by Sherie Ross.